

**PUBLIC SERVICE COMMISSION
STATE OF MONTANA**

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EX PARTE OR LATE FILED

April 18, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington DC 20554

RE: CC Docket No. 96-45

Dear Sir:

Enclosed for filing in the above described docket are the Ex Parte Comments of the Montana Public Service Commission. I have enclosed the original and ten copies. Please return a conformed copy of this letter. I have enclosed a self-addressed stamped envelope for your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Finstad Hammel".

Karen Finstad Hammel
Staff Attorney

KH/dlp

Enclosures

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EX PARTE OR LATE FILED

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
Federal-State Joint Board)
on Universal Service)

CC Docket No. 96-45

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**EX PARTE COMMENTS OF
THE MONTANA PUBLIC SERVICE COMMISSION**

SUMMARY

The Montana Public Service Commission (MPSC) submits ex parte comments on the following specific recommendations of the Federal-State Joint Board on Universal Service.

Commissioner Bob Rowe's comments are expressed in a separate filing.

COMMENTS

1. THE MPSC SUPPORTS THE JOINT BOARD'S RECOMMENDATIONS FOR LOW-INCOME CONSUMERS, SCHOOLS AND LIBRARIES

The MPSC supports the low income provisions as outlined in the Report of the State Joint Board Members on Low-Income Services (March 24, 1997), as well as the program for schools and libraries as recommended by the Joint Board.

2. THE FCC SHOULD BASE FUNDING FOR UNIVERSAL SERVICE UPON COMBINED INTERSTATE AND INTRASTATE REVENUE

The MPSC supports funding of universal service based upon revenues derived from a charge on the combined interstate and intrastate revenues of carriers. Without a combined fund,

rural states like Montana will be unable to economically implement the goals of the Telecommunications Act of 1996. Montana is a high cost, low density state, with an area of 147,138 square miles and a population of less than one million residents. Without a combined fund, consumers in Montana may experience significant increases in local rates for basic telecommunications service. Without a combined fund, it may not be possible for telecommunications providers in rural states like Montana to obtain sufficient revenues to enable them to provide cost effective service to all customers.

The actual cost of implementing the national policy of reasonably comparable rates and services for all Americans, regardless of where they live, will be unjustly borne by the consumers of regional rural America if only interstate revenues are used to fund universal service at the federal level. This is contrary to the legislative intent of the Telecommunications Act of 1996, Pub. L. No. 104-104, 56 Stat. 110. Rural Montanans are eagerly anticipating an affordable link to the world of basic and advanced telecommunications. Without a combined fund to implement this national goal, however, the link may instead become an expensive federal mandate which places an unfair and undue burden on the Montana consumer. Instead of providing an equal opportunity for basic telephone service, the result will be to force rural customers to decide whether their budgets can afford the luxury of a costly monthly telephone charge. The link to this new world of telecommunications would become a broken chain based upon geographic realities of particular states. Thus, a combined revenue fund is imperative to meet the needs of rural Montana and other rural areas of America.

The MPSC supports the legal argument that a combined fund does not violate the jurisdictional separation between state commissions and the FCC contained in 47 U.S.C. § 152(b). Section 254 (d) of the 1996 Act gives the FCC independent authority to collect universal service funds. The collection of funds is not an inappropriate intrusion on the states' intrastate rate making authority and does not violate § 2(b) of the Communications Act of 1934. Section 254 (d) of the Act is indicative of the Congress's intent to fund universal service through a combined interstate/intrastate mechanism.

Montana's U.S. Senator Conrad Burns recently reaffirmed the importance of adequate universal service support in his opening statement for the full Commerce Committee hearing on universal service which was held on March 12, 1997. He stated, "We need to assure that the universal service support which we have mandated in our legislation is sufficient, predictable and specific to sustain the current system of affordable prices in all our states, especially including rural states like mine." The MPSC credits Senator Burns for his leadership on this issue and joins him in calling for a combined fund. A combined fund is a positive step toward the implementation of sufficient, predictable, and affordable telecommunications service for all.

3. THE MPSC DOES NOT SUPPORT RESTRICTION OF UNIVERSAL SERVICE SUPPORT TO PRIMARY RESIDENTIAL LINES

The MPSC is also concerned that the Joint Board's recommendation to limit universal service support to primary residential lines, if implemented, will have a severe effect on rural America. This recommendation is a significant change in the status quo for rural Montana households and businesses. The line limitation may critically impact connection costs for both

basic and advanced telecommunications service. Telecommunications allows existing and new rural businesses to overcome the disadvantages of distance and disaggregation. The second business line and the Internet line are not luxuries for these businesses, but often necessities for the survival of their business. Without universal service support for businesses and secondary lines, telecommunications opportunities will be narrowed, rather than broadened. Rural consumers will be denied the benefits of the new national telecommunications policy simply because of geography.

4. THE MPSC DOES NOT SUPPORT FREEZING FEDERAL SUPPORT FOR RURAL TELEPHONE COMPANIES AT PAST INVESTMENT LEVELS

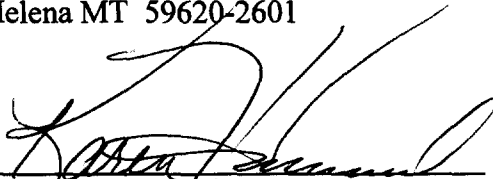
The Joint Board's recommendation to freeze federal support for rural telephone companies at past investment levels, pending a transition to a new system within a few years, may also be a barrier to achieving goals of universal service in rural Montana. Many rural telephone companies have made commitments for additional construction or improvements of their infrastructure. Some areas in Montana are presently served by outdated facilities that will be costly to upgrade or replace. Freezing universal service support at existing levels will result in rate increases for consumers as rural telephone companies scramble to cover the costs of maintaining their telecommunications networks. The goal of competitive neutrality for telecommunications providers cannot be achieved if existing rural telephone companies are left holding few options for providing basic telecommunications service in an economically affordable manner.

CONCLUSION

The Montana Public Service Commission urges the FCC to consider the realities of rural America when issuing its decisions on Universal Service. This is an exciting time for our nation as we approach the twenty-first century. Indeed, the world is opening its arms to all of us through the expanded opportunities for telecommunications access. The MPSC asks that the needs of rural America, as well as the very real resulting impacts of telecommunication changes, be seriously considered when the FCC issues its final determinations.

Respectfully submitted this 18th day of April, 1997.

Montana Public Service Commission
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KAREN FINSTAD HAMMEL
ITS ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Ex Parte Comments of the Montana Public Service Commission, CC Docket No. 96-45, has today been served on the attached list by mailing a copy therefor to each party.

Date: April 18, 1996


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